IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

Crl.MC.No. 3752 of 2007()

LP.304/2006 of JUDL.MAGISTRATE OF FIRST CLASS-III, PUNALUR

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PETITIONER: ACCUSED

LATHEEF, AGED 32 YEARS, S/O.HANEEFA,
PARAVILA MELEPUTHEN VEEDU, NADUKUNNU MURI,
PATHANAPURAM, KOLLAM DIST.

BY ADV. SRI.BIMAL K.NATH
SRI.S.JAMAL
SRI.E.M.SUNIL KUMAR
SMT.SMITHA DIVAKARAN
SRI.SREEVALSAN.V

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3752 of 2007

Dated this the 17th day of December, 2007

O R D E R

Petitioner faces indictment in a prosecution for offences punishable, inter alia, under Section 332 I.P.C. The petitioner was never arrested or enlarged on bail in this crime. Final report has already been filed. Cognizance has been taken by the learned Magistrate. The case is pending as C.C.1310 of 2005 before the J.F.C.M-III, Punalur. Consequent to non appearance of the petitioner, the case against him was transferred to the list of Long Pending Cases and the same is now pending as L.P.304/06.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He is willing to surrender before the learned Magistrate and apply for bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-